

regard to Yang, "... the plasma plumes of the ETP sources will interfere with each other and will push each other away. As a result of this phenomenon, interference-like deposition patterns have been found to arise between the sources, so that, there, the layer thickness is not uniform. The tables of tests included in the respective publication show considerable layer thickness differences." [Applicant's Specification, page 1, lines 17-22].


Indeed, excising the claimed subject matter to merely consider some of the claimed subject matter is improper. See PCT Rule § 13.2 ("The expression "special technical features" shall mean those technical features that define a contribution which each of the claimed inventions, considered as a whole, makes over the prior art.") (emphasis added); see also 37 CFR § 1.475(a).

Thus, for at least the forgoing reasons, Applicant submits that the Examiner has not established a *prima facie* case for Restriction.

While Applicant does not believe that any fee is required with this response, Applicant authorizes the Commissioner to charge any fees (if necessary) associated with the submission of this paper to **Deposit Account Number 033975** (Attorney Docket No. 008895-0325576). The Commissioner for Patents is also authorized to credit any over payments to the above-referenced Deposit Account.

Date: April 26, 2010

PILLSBURY WINTHROP SHAW PITTMAN LLP
P.O. Box 10500
McLean, VA 22102
Direct Dial: 703 770.7721
Main: (703) 770.7900
Fax: 703.770.7901


ERIC B.. COMPTON
Reg. No. 54,806

Customer No. 00909